This Draft Statutory Instrument has been printed in substitution for the Draft Statutory Instrument of the same title, which was laid on 17th December 2007, and is being issued free of charge to all known recipients of that Draft Statutory Instrument.
Draft Order laid before Parliament under section 240(6) of the Local Government and Public Involvement in Health Act 2007, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No. XXXX

LOCAL GOVERNMENT, ENGLAND

The County Durham (Structural Change) Order 2008

*Made - - - - ***2008*

Coming into force in accordance with article 1

This Order implements, without modification, a proposal, submitted to the Secretary of State for Communities and Local Government under section 2 of the Local Government and Public Involvement in Health Act 2007(**1**), that there should be a single tier of local government for the county of County Durham.

That proposal was made by Durham County Council.

The Secretary of State did not make a request under section 4 of the Local Government and Public Involvement in Health Act 2007 (request for Boundary Committee for England's advice).

Before making the Order the Secretary of State consulted the following about the proposal—

(a) every authority affected by the proposal(**2**) (except the authority which made it); and

(b) other persons the Secretary of State considered appropriate.

The Secretary of State for Communities and Local Government makes this Order in the exercise of the powers conferred by sections 7, 11, 12 and 13 of the Local Government and Public Involvement in Health Act 2007:

(**1**) 2007 c.28. *See* section 21(3) as to proposals made in response to pre-commencement invitations, and section 23(3).
(**2**) *See* section 7(4) as to authorities "affected by" a proposal for the purposes of that section.

PART 1

GENERAL

Citation and commencement

1. This Order may be cited as the County Durham (Structural Change) Order 2008 and shall come into force on the day after that on which it is made.

Interpretation

2. In this Order—

"the 2007 Act" means the Local Government and Public Involvement in Health Act 2007;

"the 2000 Act" means the Local Government Act 2000 as it has effect in relation to the County Durham council(**3**);

"the 1972 Act" means the Local Government Act 1972(**4**);

"article 7 functions" means the functions referred to in article 7;

"County Durham", except in the definition of "the County Durham council" and the second mention of those words in article 3(2), means the county of County Durham;

"the 2008 election" means the election required by article 13(1) to be held in 2008;

"the 2008 election day" means the ordinary day of election of councillors(**5**) in 2008;

"the County Durham council" means the council of the county of County Durham;

"the district councils" means the councils specified in article 4(b);

"the first transitional period" means the period beginning on the date on which this Order comes into force and ending on the fourth day after the 2008 election day;

"the Implementation Executive" means the committee established (whether before or after the coming into force of this Order) for the purposes of article 6(3);

"the main transitional function" has the meaning given by article 6(1); and

"the second transitional period" means the period beginning on the fourth day after the 2008 election day and ending on 1st April 2009.

PART 2

ESTABLISHMENT OF SINGLE TIER LOCAL GOVERNMENT IN COUNTY DURHAM

Single tier local government in County Durham

3.—(1) On and after 1st April 2009 the County Durham council shall be the sole principal authority for County Durham.

(2) For the purposes of enactments relating to local government, there shall be a new district, whose area shall be co-terminous with that of County Durham; and the name of that new district shall be County Durham.

(**3**) 2000 c.22. Relevant amendments are made by Part 3 of the Local Government and Public Involvement in Health Act 2007, but see paragraph 2 of Schedule 4 to that Act for transitional provisions relevant to the County Durham council.
(**4**) 1972 c.70.
(**5**) *See* section 37 of the Representation of the People Act 1983 (c.2).

Abolition of districts and winding up and dissolution of district councils

4. On 1st April 2009—

(a) the following local government areas shall be abolished—

(i) the borough of Sedgefield,

(ii) the city of Durham,

(iii) the district of Chester-Le-Street,

(iv) the district of Derwentside,

(v) the district of Easington,

(vi) the district of Teesdale, and

(vii) the district of Wear Valley; and

(b) the following councils shall be wound up and dissolved—

(i) Sedgefield Borough Council,

(ii) Durham City Council,

(iii) Chester-Le-Street District Council,

(iv) Derwentside District Council,

(v) Easington District Council,

(vi) Teesdale District Council, and

(vii) Wear Valley District Council.

Cessation of term of office of district councillors

5. Every person who holds office as a councillor of one of the district councils immediately before 1st April 2009 shall cease to hold office on that date.

PART 3

TRANSITIONAL FUNCTIONS AND THEIR DISCHARGE

Main transitional function and Implementation Executive

6.—(1) On the coming into force of this Order there shall be added to the functions of the County Durham council the function, which is to be exercisable only during the first and second transitional periods, of preparing for and facilitating the economic, effective, efficient and timely transfer of the district councils' functions, property, rights and liabilities ("the main transitional function").

(2) Throughout the first transitional period, section 15 of the 2000 Act (discharge of functions: leader and cabinet executive) shall have effect in relation to the County Durham council and—

(a) the main transitional function, and

(b) the other transitional functions referred to in article 7 ("the article 7 functions"),

as if, in subsection (1), after the words "19 or 20," there were inserted "or under the County Durham (Structural Change) Order 2008,".

(3) The County Durham council's executive arrangements shall provide for the discharge of the main transitional function and the article 7 functions to be the responsibility, throughout the first transitional period, of a committee of the council's executive, to be known as the Implementation Executive.

(4) Such statutory provisions as apply to, or in relation to, committees of a local authority's executive shall apply throughout the first transitional period to, or in relation to, the Implementation Executive subject only to paragraphs (5), (6) and (8) to (10) of this article and article 8(2) to (4); and for this purpose "statutory provisions" includes —

(a) any enactment contained in an Act passed after the making of this Order; and

(b) any instrument made at any time under an enactment (including an enactment contained in an Act passed after the 2007 Act).

(5) The Implementation Executive shall consist of—

(a) the person who is for the time being the leader of the County Durham Council,

(b) nine other persons nominated by that Council who are for the time being members of that Council,

(c) one other person nominated by that Council who is for the time being a Conservative Party member of that Council, and

(d) seven persons nominated by the district councils, each of whom is nominated by one of the district councils and is for the time being a member of the council by which he is nominated (whether or not he is for the time being the leader of that council's executive).

(6) In making the nominations referred to in paragraph (5)(b) and (d), the County Durham council and the district councils shall, to the extent that it is practicable to do so, secure that at all times the Conservative Party, the Labour Party and the Liberal Democrats are each represented on the Implementation Executive by at least one member.

(7) It shall be the duty of the County Durham council and each of the district councils to co-operate in the establishment of the Implementation Executive.

(8) The leader of the Implementation Executive shall be the person who is for the time being the leader of the County Durham council's executive; and that person shall preside at all meetings of the Implementation Executive at which he is present.

(9) The Implementation Executive shall regulate its own proceedings, but a question to be decided by the Executive shall, in the first instance, be decided by the majority of those present and voting at the meeting at which the question is put, each member (including the leader of the Executive) having one vote.

(10) In the case of an equality of votes, the person presiding at the meeting (whether or not the leader of the Executive) shall have a casting vote, in addition to any other vote the person may have.

Other transitional functions

7.—(1) The other transitional functions referred to in article 6(2)(b), which are to be exercisable only during the first and second transitional periods, are—

(a) such executive and non-executive functions of the County Durham council as exist on the date on which this Order is made; and

(b) such other functions (including functions exercisable by all or any of the district councils, and functions conferred on or after that date on local authorities generally or on particular classes of local authority),

as, by any of the means mentioned in paragraph (2), the Secretary of State may specify.

(2) The means referred to in paragraph (1) are—

(a) this Order,

(b) a subsequent order made under section 7 of the 2007 Act by virtue of section 14 of the Interpretation Act 1978 (power to amend)(**6**),

(c) an order under section 20 of the 2007 Act (correction of orders), and

(d) regulations under section 14 of the 2007 Act (regulations for supplementing orders).

Discharge of functions by Implementation Executive

8.—(1) The discharge of the main transitional function and the article 7 functions shall be a responsibility, throughout the first transitional period, of the Implementation Executive, and shall not, during that period, be a responsibility of the executive of the County Durham council.

(2) Section 15(7) of the 2000 Act (which enables a committee of a local authority executive to arrange for the discharge of its functions by an officer of the authority) shall have effect during the first transitional period in relation to the Implementation Executive as if—

(a) references to functions included references to responsibilities, and

(b) the reference to an officer of the authority included a reference to—

(i) a sub-committee of the Implementation Executive, and

(ii) an officer of any of the district councils.

(3) Section 15(9) of the 2000 Act (which enables a person who has made arrangements for the discharge by another person of any function of his, to discharge that function himself) shall have effect during the first transitional period in relation to arrangements made under subsection (7) of that section (as modified by paragraph (2) above) as if —

(a) references to functions included references to responsibilities, and

(b) the reference to an officer of the authority included a reference to—

(i) a sub-committee of the Implementation Executive, and

(ii) an officer of any of the district councils.

(4) Section 21 of the 2000 Act (overview and scrutiny committees) shall not apply during the first transitional period in relation to any matter that is—

(a) a responsibility of the Implementation Executive by virtue of paragraph (1), or

(b) the responsibility of that Executive under arrangements made by the County Durham council under the 2000 Act.

(5) Section 13 of the 2000 Act (functions which are the responsibility of an executive) shall have effect as if, at the end of subsection (10)(c), there were added "or as mentioned in article 8(6) of the County Durham (Structural Change) Order 2008".

(6) At any time during the first transitional period, the County Durham council and the district councils may discharge jointly under arrangements under section 101(5) of the 1972 Act the functions of—

(a) reviewing or scrutinising decisions made, or other action taken, by the Implementation Executive in connection with any matter of a description mentioned in paragraph (4); or

(b) preparing reports for, or making recommendations to, the Implementation Executive in connection with any function or responsibility of that Executive.

(7) Where such arrangements as are mentioned in paragraph (6) are made, the joint committee shall inform the County Durham council and the district councils before the end of the first transitional period—

(a) of the matters that it has considered, and

(**6**) 1978 c.30.